

REMARKS

Applicant thanks the Examiner for his consideration of the application. Claims 1-9 and 15 are pending in the application. Claims 10-14 were previously cancelled.

Claim Objection

The Examiner objected to claim 15 because of informalities and suggested amending the claim to better define the method step. Applicant has amended claim 15 accordingly. In addition, the Examiner states that since the suggested amendment encompasses more than a mere spelling or grammatical change, a supplemental oath/declaration is required. However, a supplemental reissue oath/declaration needs to be submitted only where an error has been corrected *and the error was not identified in the original reissue oath/declaration*. MPEP §1414.01. In this case, the error was already identified in the reissue declaration submitted with the amendment filed on December 9, 2002. *See, e.g., Statement of Lewis M. Nashner, paragraphs 2 and 3 (“[o]ne way this may be accomplished is by providing one or more support surfaces ... that permit rotation of the subject’s feet” (emphasis added); “the purpose of this step is to cause rotation of the subject’s feet” (emphasis added)).* The amendment to claim 15 made herein does not substantively change the scope of the claim language from that submitted with the December 9, 2002 amendment. Accordingly, the reissue declaration submitted in this application already identifies the error and a new supplemental declaration should not necessary. Applicant respectfully requests that the objection be withdrawn.

Specification Objection

The Examiner objected to the disclosure because the series identifier for the application numbers were not included. Applicant has amended the disclosure accordingly. Examiner also objected to the disclosure because the attorney docket number rather than the proper serial number and status of the application was used in lines 7-8. Applicant has removed this previously added language, making the objection moot.

35 U.S.C. § 103

The Examiner rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,416,293 issued to Anderson et al. ("Anderson") in view of U.S. Patent No. 3,894,437 issued to Hagy et al. ("Hagy"). Amended independent claim 4 is directed to a device for determining the extent of a subject's independent ability to maintain a position in equilibrium. The device includes, among other things, perturbing means for disturbing the subject's position in equilibrium, the perturbing means having support means, each support means independently movable with respect to one another and linearly along a horizontal axis, for supporting a subject in equilibrium and analyzing means for determining at least one of the order or distributional relationship of such contractile activity.

Anderson is directed to a method for recording data concerning the gait of a patient in connection with podiatric matters. The method includes, among other things, recording the movement of the patient upon a treadmill. *See*, e.g., abstract. Anderson does not disclose, teach or suggest support means independently movable with respect to one another. In addition, as the Examiner admits, Anderson does not disclose, teach or suggest analyzing means for determining at least one of the order or distributional relationship of such contractile activity. Instead, the Examiner claims that Hagy discloses an analyzing means "for determining at least one of the order or distributional relationship of such contractile activity" and that it would have been obvious to one having ordinary skill in the art to modify the device as disclosed by Anderson to include an analyzing means as taught by Hagy in order to analyze certain elements of the gait of a walking subject. Office action dated August 8, 2006 at 4. Applicant respectfully disagrees.

First, Hagy does not disclose, teach or suggest "analyzing means for determining at least one of the order or distributional relationship of the degree of muscle contractile activity" as required by claim 4. Rather, Hagy discloses that electromyographic data from sensors, in conjunction with motion pictures, may be provided to electronic devices for analysis in order to analyze certain elements of the gait of a walking subject. *See*, e.g., col. 3, lines 40-50. There is no disclosure, teaching or suggestion in Hagy related to determining the order or distributional relationship of such muscle contractile activity. Second, there is no suggestion or motivation to combine the references as suggested by the Examiner. Anderson teaches a subject moving upon

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a moving treadmill, while Hagy teaches a subject walking over a fixed, rigid force plate. Lastly, both Anderson and Hagy are directed to gait analysis and are not related to posture and equilibrium movement coordination and analysis, such as disclosed and claimed in the present application.

Therefore, neither Anderson nor Hagy, alone or in combination, disclose, teach, or suggest, "support means independently movable with respect to one another and linearly along a horizontal axis" for supporting a subject in equilibrium or "analyzing means for determining at least one of the order or distributional relationship of such contractile activity" as required by claim 4. Accordingly, claim 4 is patentable in light of the cited prior art, either alone or in combination, for at least the reasons cited above.

Allowable Subject Matter

The Examiner indicated that claims 1-3, 5, 7-9 and 15 are allowable. The Examiner objected to claim 6 as being dependent upon a rejected base claim, but indicated it would be allowable if rewritten in independent form. Claim 6 has been amended accordingly.

CONCLUSION

All the claim objections and rejections have been addressed and all of the pending claims are allowable for the reasons stated and others. Reconsideration of the application and issuance of a notice of allowance are respectfully requested. Applicant believes that no additional fees or an extension of time is required. Please apply any additional charges or credits to Deposit Account No. 19-4972.

Respectfully submitted,

DATE: November 8, 2006



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